

LANDSCAPE MAINTENANCE AGREEMENT

A.G. CONTRACT NO. 87-1738

ARIZONA PROJECT F-031-1-516

JPA-87-75

TUCSON - ORACLE JCT. - GLOBE HWY.
(Desert Sky Rd. - Greenock Dr.)
Town of Oro Valley

THIS AGREEMENT, made this 13th day of July, 1987, 1987, pursuant to A.R.S. Sec. 11-951 through Sec. 11-954, by and between the Department of Transportation, Highways Division, an agency of the State of Arizona, thereunto duly authorized, hereinafter designated Department of Transportation and the Town of Oro Valley, a municipal corporation, acting by and through its Town Council, thereunto duly authorized, hereinafter designated as Town.

WITNESSETH:

WHEREAS, the Town is empowered by A.R.S. Sec. 9-672B to enter into this agreement and acting by and through its Town Council, has, by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute same on behalf of the Town; and

WHEREAS, it is to the mutual advantage of the Department of Transportation and the Town to landscape certain areas within the right-of-way on U.S. Route 89 from Desert Sky Road to Greenock Drive, centerline roadway station 537+00, to centerline roadway station 563+00, a net distance of approximately .49 miles.

NOW THEREFORE, it is hereby mutually agreed by and between the Department of Transportation and the Town, pursuant to the authority contained in A.R.S. Sec. 28-108 as follows:

1. The Department of Transportation will prepare plans for the landscaping and irrigation project and submit them to the Town for approval.

2. Upon approval, the project will be constructed by the Department of Transportation, using State funds. Upon completion of the work, the City shall reimburse the Department of Transportation 25% of the final construction costs.

NO. 11256
FILED WITH SECRETARY OF STATE
Date Filed 7-23-87
[Signature]
Secretary of State

3. The Town shall furnish and install necessary water services from water mains to the designated locations within the right-of-way on U.S. Route 89 from Desert Sky Road to Greenock Drive, for the landscaping of the roadway from centerline roadway station 537+00, to centerline roadway station 563+00. Cost shall be a portion of the 25% matching funds and at standard water service rates, all at Town expense.

4. The Town shall furnish all water for landscape installation during construction phase, and all water hereafter necessary to properly maintain the landscape within the right-of-way on U.S. Route 89 from Desert Sky Road to Greenock Drive, for the landscaping of the roadway, all as shown on the project plans from centerline roadway station 537+00, to centerline roadway station 563+00, all at Town expense.

5. After construction the Town shall maintain the landscaping and irrigation system within the right-of-way on U.S. Route 89 from Desert Sky Road to Greenock Drive, from centerline roadway station 537+00, to centerline roadway station 563+00.

6. The Town shall furnish all electrical power necessary to maintain the landscaping within the right-of-way on U.S. Route 89 from Desert Sky Road to Greenock Drive, from centerline roadway station 537+00, to centerline roadway station 563+00.

7. The Town hereby agrees to maintain the landscaping and irrigation system, in an attractive manner, as it was designed and approved by the Department of Transportation, and the Town will not make any changes, additions or deletions without written approval by the Department of Transportation, Roadside Development Services. All maintenance work shall be conducted in a manner to minimize traffic congestion and interference with through traffic.

8. The parties hereto further agree that to the extent permitted by law, the Department of Transportation and Town agree to defend, indemnify, and hold harmless each other and their agents, officials, employees and subsidiaries, from and against any and all claims, actions, demands, liability, damage, cost and expense of whatsoever character whether direct or indirect, or consequential, including loss or damage to property of either party hereto or of their persons and for the injury or death to any or all persons caused by or attributable to the negligence or fault of the Department of Transportation or the Town, their employees or agents. As to any liability

claims where the parties hereto may be jointly at fault, whether or not a named defendant to an action, the parties

agree that they will share in any settlement or judgement on the amount that is proportionate to the degree of negligence or fault of the respective parties as agreed to between them or adjudicated by the courts. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in A.R.S. Sec. 12-1518 (B) and (C).

9. This agreement shall be filed with the Secretary of State and shall become effective on the date of such filing.

10. Attached hereto are resolutions of the Department of Transportation and the Town authorizing both entities to enter into this agreement, and a written determination by the Town Attorney of Oro Valley that this agreement is in proper form and within the powers and authority granted to the Town under the laws of this State.

11. The effective date of this agreement shall be upon filing with the Secretary of State and shall remain in full force and effect for a period of five (5) years from the effective date unless terminated earlier by mutual consent of the parties hereto or unless this agreement violates any Arizona law, rule or regulation, either now enacted or which may be enacted in the future. This agreement will be automatically renewed for successive periods of five (5) years unless the parties hereto mutually agree by formal amendment reflected herein to this agreement not less than one (1) month prior to the initial or renewed expiration date.

12. All parties are hereby put on notice that this Contract (Agreement) is subject to cancellation by the Governor, pursuant to A.R.S. Sec. 38-511.

IN WITNESS WHEREOF the parties have executed two copies
of this agreement on the day and year herein written.

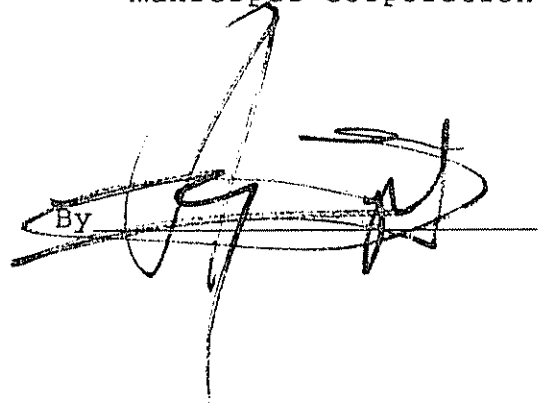
ARIZONA DEPARTMENT OF TRANSPORTATION

TOWN OF ORO VALLEY, a
municipal corporation

By


CHIEF DEPUTY STATE ENGINEER

By



STATE OF ARIZONA)
 : SS
County of Pima)

I, Kathryn E. Cuvelier, Town Clerk of
the Town of Oro Valley, Arizona, do hereby certify that the
following is a true and correct extract of the minutes of the
Town Council meeting held June 10, 1987.

In Witness Whereof, I have hereunto set my hand and
affixed the Official Seal of the Town of Oro Valley, Arizona.
Done in Oro Valley, Arizona this 11th day of June,
1987.

Kathryn E. Cuvelier

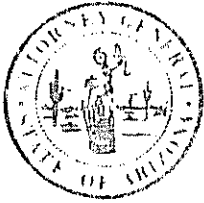
APPROVAL OF THE TOWN ATTORNEY

I hereby state that I have reviewed the proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, STATE ENGINEER and the TOWN OF ORO VALLEY and declare this agreement to be in proper form and within the powers and authority granted under the laws of the State of Arizona.

DATED this 22nd day of June, 1987.


WALT HENDERSON

Town Attorney



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert K. Corbin

INTERGOVERNMENTAL AGREEMENT

DETERMINATION

A. G. Contract No. 87-1738, is an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 16th day of July, 1987.

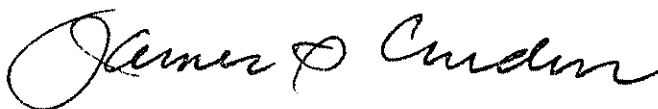
ROBERT K. CORBIN
Attorney General

Albert Morgan
Assistant Attorney General
Transportation Division

RESOLUTION

Be it resolved on this date, July 13, 1987, I, CHARLES L. MILLER, the below undersigned Director, Department of Transportation, have determined that it is to be to the advantage of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, and the TOWN OF ORO VALLEY, acting by and through its TOWN COUNCIL enter into the intergovernmental agency agreement for the purpose of entering in a landscape maintenance agreement for certain projects which have been selected by the State and subject to the approval of the Town of Oro Valley as by law required; and request the Town to perform certain work and supply necessary materials required to maintain the specified areas in the manner specified in the attached agreement.

JAMES S. CREEDON, Deputy Director



For:

CHARLES L. MILLER, Director
Department of Transportation